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Section IV:
AMENDMENT UNDER 37 CFR §1.121
REMARKS

Record of Telephonic Interview

On May 7, 2004, applicant's agent, Robert H. Frantz, and Examiner Gart held a telephonic interview at Mr. Frantz's request, in order to:

- (a) request withdrawal of the finality of the Office Action, as the art which actually pre-dates applicant's filing date (a provisional patent application) was not available for review by applicant in the last Office Action; and
- (b) discuss where within the cited provisional application examiner finds support for the relied-upon portions of a non-provisional patent application which claim priority to the provisional application, wherein the present Office Action references paragraphs in the non-provisional patent application instead of the provisional application.

During the interview the examiner pointed out specifically where in the provisional patent application such support was found (please see remarks in the following paragraphs), and agreed to withdraw the finality of the Office Action. In a subsequent voice message to applicant's agent, Examiner Gart indicated that he would vacate the finality of the Office Action, and this would be communicated in an Interview Summary.

Subsequent to this telephone interview, Examiner mailed to applicant's agent an Interview Summary in which the examiner stated that the finality of the Office Action is withdrawn in order to allow the applicant to fully consider the content of the Provisional Application cited in the rejections.

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Rejections under 35 U.S.C. §102(e)

In the Office Action, the examiner has maintained rejections of claims 1 - 23 under 35 U.S.C. §102(e) for lack of novelty as being anticipated by U.S. Patent Application Publication US2002/0059131 to Goodwin (hereinafter "Goodwin non-provisional"), which does not have a filing date prior to our application's filing date, but which claims priority to Provisional Application 60/224,240 filed by Goodwin (hereinafter "Goodwin provisional"), which has a filing date prior to our filing date.

In the Office Action, the examiner has cited paragraphs 110, 111 and 125 of Goodwin non-provisional as disclosing the element of our entitlement schema, namely the teaching of use of geographic location and product type in conjunction with filtering actions to prevent a guest bidder from seeing or viewing information about items for sale which do not meet such criteria. During the Telephone Interview, examiner pointed out that although the text of Goodwin non-provisional is not identical to the text of Goodwin provisional, Goodwin provisional contains the following disclosure (emphasis added):

Table 2: Services Offered in one embodiment of the invention

<u>Actor</u>	<u>Feature</u>	<u>Description/Action</u>
:	:	:
Buyer	Loan Search	Search for loan by: Geographic location, loan type, ... The search criteria can be stored for each registered user and can become part of the profile.
Buyer	Price a Loan	... Information presented can be filtered by profile and search criteria.
:	:	:
:	:	:

Thus, examiner has reasoned that Goodwin's loan search and price a loan functions disclose functionality equivalent to our "entitlement schema" without using the term explicitly.

However, our "entitlement schema" are determined or controlled by a contractual relationship between the offeror and the guest auction participant, such as a Reseller Master

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Agreement ("RSA") (pg. 5, line 18 to pg. 6 line 16, and at pg. 8, lines 11 - 12). In such a situation, it is not desirable to allow the guest auction participant (e.g. the buyer) to view information about available items based upon the search criteria *set by the buyer*, as this would create the possibility of the buyer setting search criteria which was in violation of the contract between the offeror and the guest auction participant.

Please note, however, that the Goodwin's "profile" records geographic location and product type search criteria which are established by the buyer, and are not controlled by a contractual relationship between the buyer and the offeror, as evidenced in Table 2 of Goodwin provisional (different emphasis added):

Table 2: Services Offered in one embodiment of the invention

<u>Actor</u>	<u>Feature</u>	<u>Description/Action</u>
:	:	:
Buyer	Loan Search	Search for loan by: Geographic location, loan type, ... The search criteria can be stored for each registered user and can become part of the profile.
Buyer	Price a Loan	... Information presented can be filtered by profile and search criteria.
:	:	:
:	:	:
Site Admin	User Admin	Add, delete, or modify User profiles

Goodwin Provisional Table 2 indicates that the "actor" who sets these search criteria *is the buyer*, not the seller or offeror. The last entry in Goodwin's Provisional Table 2 indicates that a user administrator may modify these search criteria, but it is silent as to whether or not the buyer can be prevented from further changes to the search criteria.

This is consistent with the objects of the Goodwin disclosures as Goodwin's invention is intended to be a tool that a potential buyer of a commercial loan can use to search for available loan products (Goodwin provisional Field of the Invention and Summary of the Invention). In such a case, it would be desirable to allow the user to set a geographic location search criteria, and not to restrict that search criteria.

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However, as the objects of our invention are different (e.g. to facilitate the 3-party auction of goods and services between offeror-brokers-buyers according to a pre-established contract), it *is desirable* to restrict the search criteria.

No modification to the Goodwin disclosure has been proposed by the examiner as the rejections are a Novelty rejections (102 rejections), but it would not have been obvious to one skilled in the art to modify the Goodwin system to set and control the search criteria according to a contract for the following reasons:

- (a) there is no disclosure or mention of a contract between the offeror and the guest auction participant, and thus no motivation or suggestion to make such a change;
- (b) it would change the principle of operation of the Goodwin invention to restrict or control the user's ability to set search criteria; and
- (c) such a modification would render the Goodwin invention undesirable for its intended purpose (e.g. allowing a guest user to search for loan products according to the user's preferences).

We have amended our independent claims accordingly to recite that our entitlement schema are determined by and controlled by a contract between the offeror and the guest auction participant in a manner which prevents the guest auction participant from modifying the entitlement schema, which is a step, element or limitation not taught or suggested by the Goodwin disclosures. This places our dependent claims in a patentably distinct form over the cited references as well. Applicant hereby requests reconsideration and withdrawal of the rejections, and allowance of the claims as amended.

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